

**South Carolina Board of Barber Examiners
Board Meeting
9:00 A.M., February 8, 2016
Synergy Business Park, Kingstree Building
110 Centerview Drive, Conference Room 108
Columbia, South Carolina**

1. Meeting Called to Order

- A. Public notice of this meeting was properly posted at the S.C Board of Barber Examiners, Synergy Business Park, Kingstree Building and provided to all requesting persons, organizations and news media in compliance with Section 30-4-80 of the South Carolina Freedom of Information Act.
- B. Rules of the Meeting Read by the Chairman
- C. Pledge of Allegiance

2. Introduction of Board Members and All Other Persons Attending

Chairman Paul Robinson called the meeting of the SC Board of Barber Examiners to order.
Other Board members participating in the meeting included:

- ❖ Patricia Durkin
- ❖ Frederick M. G. Evans
- ❖ Edwin Barnes

Staff members present included: Mary League, Advice Counsel; Shalon Genwright, Administrative Staff; Theresa Richardson, Administrator; Roz Bailey-Glover, Staff; Tina Behles, Court Reporter; Robbie Boland; Inspector; Sharon Wolfe, Office of Investigation (OIE); Tracey Perlman, Office of Disciplinary Counsel (ODC)

3. Approval of Excused Absences

Dr. Frederick M. G. Evans made a motion to approve the absence of Renee Patton. Patricia Durkin seconded the motion, which carried unanimously.

4. Approval of Agenda

Patricia Durkin made a motion to approve the agenda. Dr. Frederick M.G. Evans seconded the motion to approve the agenda, which carried unanimously.

5. Approval of Meeting Minutes

Patricia Durkin made a motion to approve the December 14, 2015 minutes. Dr. Frederick M. G. Evans seconded the motion, which carried unanimously.

6. Chairman's Remarks – Paul E. Robinson

He attended the 3M Subcommittee hearing on the House Bill 477-77 (Mobile Barbershops). The bill was brought out of subcommittee on that day by unanimous vote. It was a vote of 14-1 with a full conference committee. The legislators were from Chesterfield, Marlboro, and part of Darlington counties.

7. Administrator's Remarks, For Information – Theresa Richardson

a. Budget – November-December 2015

For information only.

b. OIE Report – Office of Investigations and Enforcement – Sharon Wolfe

The numbers were ran from January 1 – January 27, 2016. They have opened 3 (three) cases so far this year. The issues are currently unknown in determining what the case is. It looks as if there are bias violations of practicing and allowing unlicensed practicing. There have been 4 (four) alleged issues.

c. IRC Report – Office of Investigation and Enforcement – Sharon Wolfe

For January 27: She asked for the board to vote to approve them if they concurred with their findings.

Dr. Frederick M. G. Evans made a motion to approve the IRC Report and Edwin Barnes seconded the motion, which carried unanimously.

d. ODC Report – Office of Disciplinary Counsel – Tracey Perlman

They currently have 20 (twenty) open cases and 7 (seven) are pending action on her part. 3 (three) are pending hearings, which are scheduled for today and 3 (three) have been closed since December 9, 2015.

e. Inspection Report – Robbie Boland

Yearly Totals: January 2015 – December 2015

- ❖ 1,043 inspections
- ❖ 271 shops closed
- ❖ 772 (physically inspected)

In January 2016, they attempted to inspect 69, but 12 were closed. They physically inspected 57.

There are 1,306 Barbershops currently as of February 3, 2016.

Chairman Robinson asked Mr. Boland about his familiarity with the mobile barbershops. He stated that proposed legislation requires an annual inspection here and there are many concerns of the mobile barbershops not being treated the same as the brick/mortar shops and subject to random inspections. He asked for his opinions or thoughts. Robbie Boland stated that if we are mandated for annual inspections, they would carry it out. If they saw a mobile shop open, they could pop in and do an unannounced inspection as they do regular brick and mortar shops, which is his suggestion. He could not remember if it was in regulations or not. Mary League stated that you can only do what the law requires you to do. Some states that allow the licensure of mobile barbershops require schedules of where they play to be on a monthly basis for their regulating agency. Brick and mortar is a little more elusive. Expanding a statute is not what the purpose of regulations is; it only explains. It is not currently in the law as drafted. If it is not there in the statute, whether or not it can be done is a question mark. Mr. Barnes asked Mr. Boland how DHEC handles mobile food. Mr. Boland stated that he would have to research it. Mr. Barnes stated that we should look at their regulations and that would be the key to the whole answer.

Another concern mentioned by Mr. Robinson was the proximity that a mobile shop would be next to a brick and mortar barbershop. It could be a big problem. Mr. Boland responded that under the jurisdiction given, we can do what the board desires. We are getting a little more mobile. We do not want to give the appearance of picking on mobile shops.

f. New Assistant Deputy Director

Mr. Andrew Rogers introduced himself and mentioned his previous work as disciplinary counsel for several boards. Mr. Rogers has been promoted to Assistant Deputy Director over Business and Building Boards. He has supreme confidence in Ms. Theresa Richardson and welcomes all comments from the Board.

8. Old Business

There was no old business.

9. New Business

a. Consideration of Third Student Permit

i. Joshua Burgess

He was attending Harley Barber College in Columbia and went to a Charleston school (Howard's) after that school shut down. Mr. Burgess then relocated back to Sumter and wants to enroll in Ragin Barber College. He has 730 clock hours and attends school full-time and has a part-time job at a furniture store.

Chairman Robinson asked Ms. Richardson if Ragin Barber College was in good standing, in which she replied that it was.

Chairman Robinson entertained a motion to approve for Mr. Burgess to permit a third permit. Dr. Evans made the motion for approval. It was seconded by Mr. Barnes and Ms. Durkin.

The motion carried unanimously.

b. Consideration of a New School or School Changes

i. Cuts Barber College

Mr. Robert Bligen came to represent Cuts Barber College. He currently owns a barber shop in North Charleston, South Carolina. There are only two (2) barber schools in the Charleston area, with one being in West Ashley and the other in Goose Creek. His school could cater to the tri-county area by being in the center of that area. His instructors include Tommy Tate, Marcus Bailey (whom he just interviewed on Friday), Shanika Riley, and himself. He would like for this school to open on March 1, 2016.

Dr. Evans questioned the diagram of the school, along with Mr. Robinson. Mr. Bligen stated that the construction would be done in the next week and a half. There is only one entrance/exit. With the "back" door, it only leads into an adjacent building (church).

Dr. Evans made a motion for provisional approval pending an inspection. The motion was seconded by Mr. Barnes.

The motion carried unanimously.

Chairman Robinson asked Mr. Bligen to leave his name and contact number for the office and that they would be in contact. No one will come to the venue until the inspection is done.

ii. Betty's School of Barbering (Name Change)

Ms. Betty Daniels-Peterson represented herself. Back in 1995, in doing her application, all information would come from the board with the different name on it and she never made a big fuss about or questioned it.

With the new approving official with the VA, the name should signify the same name that the VA has, as well as with the IRS. In 1995, she established Betty's College of Barbering. In 2001, she established the Career College of Cosmetology. The name should be *Betty's College of Barbering and Technology of Beauty*.

There were no questions from the board.

Dr. Evans made a motion to approve the name change. Mr. Barnes seconded the motion.

The motion carried unanimously.

c. Discussion Regarding Title IV Funding

i. 17-8

A couple of meetings ago, there was a discussion in regards to crossover hours. After new regulations, in order for a student to go to a barber college to get additional hours and get financial aid, they have to take 600 hours (program). We approved 450 hours and need to make an adjustment. They have to be in more hours to qualify and complete training. Mary League mentioned that the regulation is already in front of the General Assembly and it will have to be amended (withdrawn) if changed. She understands the concerns, but hours for the school need to be ration related for what it takes to get trained - additional hours are necessarily related to training requirements and no financial. The hours are already higher reciprocally. There are just a couple of things to consider to be an overall good move.

Nationally, the program is 600 hours and they do not have a barber program for crossover with cosmetology. Cosmetologists that have never picked up a razor will need more hours just to use the razor and shaving, according to Chairman Robinson.

Dr. Evans stated that based on the number of hours that have already been submitted (450), 600 hours can be driven from the schools for financial assistance and still be under regulations. When we get into dictating from the board level, we change the curriculum. Chairman Robinson stated that is what we are trying to do in order to drive people with no experience in barbering to get the training. Ms. Durkin would not like for cosmetologists seeking a crossover license to make it to 600 hours. It could put a strain on them if they are already working. Ms. League stated the proposal requirement is actually 375 hours as a correction from 450 hours. Mr. Barnes states that if we offer 375 hours, and the school says 600 hours, we have never gotten into a financial situation with that. Chairman Robinson stated that they were referring to the VA based on the curriculum. We are not going to adjust the program for 600 hours. Dr. Evans stated the hours must be mandated from the board. Chairman Robinson stated that 375 hours were put into place on two (2) meetings ago, and we want to consider changing it. The state requires that you can take our test once you reach 375 hours. What was originally submitted will time out in May, according to Dr. Evans and Ms. League. Ms. Theresa Richardson cannot give an example of cosmetology crossover, but she knows what the regulations state. If the school requires 600 hours, the student applies with the school and gains hours for financial aid funds in order to be licensed, even if the board requires less hours. With meeting the school requirements, they meet the board requirements as well. Dr. Evans assumes that with the school curriculum, if a student qualifies, aid will be dispersed. He recommends that this be reviewed and taken into consideration. Chairman Robinson states that if they take it up, it will pass as is or it will time out in May. May 13, according to Ms. League. She and Theresa will do research on how the schools handle this.

d. Discussion Regarding Crossover Licensing

This was discussed in conjunction with '9. e.' on the agenda.

e. Board Delegated Authority to Staff

Areas were pointed out at the last meeting. School name changes and 3rd student permits will be delegated to the staff to make those decisions without the applicants coming to the board meeting. There was no objection from Ms. Richardson.

Mr. Barnes made a motion to approve the delegation to the staff. Dr. Evans seconded the motion.

With 3rd student permits, the only issue is when students are taken advantage of, along with having fewer than 500 hours or not even being halfway. With more than 500 hours, staff may approve that as long as the school is in good standing. Mr. Barnes thinks that they should stay with the board if they have less than 500 hours and that the problem should be identified with instructors, bringing it to the board. That includes if they are consistently having problems with their hours as well, if there are complaints by the student, instructors are not there, or if the instructor is not turning their hours in.

Dr. Evans made a motion to allow staff to make decisions of 500 hours or more, along with the instructor and college being in good standing. The motion was seconded by Mr. Barnes.

The motion carried unanimously.

10. Hearings – Tracey Perlman

Ms. Perlman asked for a 5 minute break.

i. 2015-45

Salon 496 – Hearings 2015-45 and 2015-53 are intimately related, so duplicated information may be heard. A student finished school without a license. The permit expired at the end of April and she continued to go to school. On May 9, 2015, the barber instructor signed off on 1,500 hours. The student took the exams and passed them. The board received a second permit application in July, but the student had already graduated. The respondents violated numerous codes, were deceptive, and the student should not have practiced. Based on the letters submitted and testifying, fraudulent acts were committed. Mr. Fred Davis (respondent) stated that he did not try to deceive the student or the state. They have over 200 students and have never had a problem before. He is serious when it comes to the school and does not deceive students. The application was sent via e-mail and the money was sent later on. When the student was called and told that the board was investigating her, she was shocked. If any student has a problem, they come to him and he solves it. He apologized and says that all blame comes on him.

Kathy Meadows was called to the witness stand, who is an investigator for several programs with the Office of Investigations (LLR). Exhibit 1 was passed out with no objections. Ms. Meadows states that the nature of the violation is that the training affidavit for the student's hours/training did not match up. A complaint was filed. The school owner and the owner's wife was spoken with, along with the person over financial aid (Ms. Charlene Scott) and instructor (Ms. Melody Maffett) who signed off on the hours. On the training affidavit, it showed that she had the hours to take the exam, but hours for March were missing. Exhibit 2 (barber training affidavit) was given. The training affidavit was signed on May 9, 2015. Ms. Meadows found out the student permit was not valid during the specified period. An e-mail was sent with an application for the permit, but no fee was attached, therefore it was not processed. Exhibit 3 (permit application for student) was given with no objection. It was received on July 6, 2015, by the board. Ms. Scott

and Ms. Lewis gave written statements admitting to signing off on false hours. Exhibit 4 (written statements from Ms. Scott and Ms. Lewis) was given without objection. They submitted the application for the student to get a second permit, without having a valid permit at the time. That was their explanation on why they sent that student's information in.

Dr. Evans reviewed and read aloud 17.8 (Regulations – Barber Student Applications, Permits, etc.) - he asked Ms. Meadows' interpretation of the regulation in regards to whether it is the student's responsibility or the school's responsibility. She stated that she just gathers the information and facts. Investigators are not required to interpret anything, according to Ms. Perlman. The respondent refused the cross-examination.

Another witness was called – Ms. Bridget Richardson of Barber, Cosmetology, and Massage (LLR). She processes all applications, as well as monitors compliance through the boards. Once they receive student applications, the barber instructor/school owner submits an application with a required fee of \$35. It is the practice of barber schools to submit applications for proposed students with the proper fee, as well as the barber instructor if on-the-job training is being conducted. On the student permit, there is a section for the school to certify the information. If permit applications came in without the certification from the school, it would be sent back with a deficiency letter. The student has to be enrolled, as well as have a current permit. The student's permit was not under regulation during the timeframe of April 23 and May 9 because the student was not current. Mr. Davis, the respondent asked the witness, Ms. Richardson, when she received the application. She stated that it was on July 6, 2015. They cannot process the application without the fee, although he stated he e-mailed the application and mailed the fee at the same time. You have to have the application and the required fee at the same time. The hard copy was not received until July 6, 2015. The money was put into our system on July 8, 2015. Mr. Davis stated that they sent 4 applications for students at the same time via e-mail. When the hard copy was submitted, the affidavit of 1,500 hours were sent as well. Ms. Richardson is unsure of the e-mailed version that was sent. If the application is sent in the mail without a payment, it is stamped "no payment received". On April 22, 2015, the e-mail was sent and the affidavit was signed.

Another witness was called, Linda (Janet) Davis, wife of the respondent. Ms. Davis stated that she sent 4 (four) applications at one time via e-mail and she attached checks herself. All were processed except for that one. She only sent the affidavit in July. They did not have the checks as asked by Chairman Robinson. They did have the copy of the e-mail that was sent. Charlene Scott sent the e-mail on that day. It is the duty of Ms. Davis to ensure that the applications are notarized and sent on the same day. She also ensures that the checks are attached and sent on the same day. Ms. Davis knew that she had to submit a hard copy and funds. She has no evidence that the student's check was sent on that day. Dr. Evans asked Ms. Davis if the student's permit expired, in which she replied that it did in April, so they sent the renewal hoping it would be in before her permit expired. Their students' permits expire at different times. The student did continue training. Chairman Robinson asked if an affidavit was submitted on May 9, after the student's expiration on April 29. The answer was yes. She proceeded to state that the investigator came to the school and she explained this to the investigator and stated her problem with the board getting back to them in 60-90 days. The investigator stated that they were lacking in staff.

Ms. Perlman called a rebuttal witness, Ms. Theresa Richardson who is the Administrator for the Board of Cosmetology, Barber Examiners, and the Massage Panel (LLR). She states that they received the hard copies on July 6, 2015. She also stated that their turnaround times are within 10 business days. The money is entered in the database and applications are processed. If nothing is missing, then the application will be processed and a license number is generated. If not, staff will send deficiency notifications. None were processed before July.

In Mr. Davis's closing argument, he stated that they try not to deceive the state or the students. His wife always sends out things on time. On their end, they turn in applications on time. Student permits are based on individual dates. They have since put things into place to ensure this never happens again.

In Ms. Perlman's closing argument, she stated that the e-mail that Ms. Davis sent out was on April 23, 2015, which was the same day that the student permit/license was expired. The training affidavit was signed fraudulently in violation of several codes.

Mr. Barnes moved for a motion to go into executive session, which was seconded by Ms. Durkin. The motion carried unanimously.

The board then went into executive session.

Chairman Robinson made a motion to come out of executive session, which carried unanimously.

After coming back into session, the board decided that in the case of 2015-45, the state did not prove their case in the S.C. Codes 40-1-110-1d. The state did prove the case in the S.C. Code of 40-1-110-1f regulations of 17-7d and 17-7b. They assessed the sanction of \$250 to be paid within 60 days and there is no public reprimand.

A motion was given by Chairman Robinson to be in favor of the sanctions given and seconded by Mr. Barnes.

The motion carried unanimously.

ii. 2015-53

Ms. Perlman stated that Melody Maffett is the instructor in the case that was just heard. She admits that she signed the training affidavit and that she did so at the request of Mr. Davis, the owner of Salon 496. It was asked that the board accept her stipulations to the facts in the matter and may put in a formal complaint. Ms. Maffett spoke on her own behalf and stated that she was not the instructor on the floor at the time; she was the freshman instructor and Mr. Davis asked her to sign the affidavit, so she assumed that it was correct and did so at his discretion. Mr. Davis stated that the student needed it signed immediately and was unaware that it was fraudulent.

Chairman Robinson made the motion to go into executive session, which was seconded by Dr. Evans. The motion carried unanimously.

The board then went into executive session.

Chairman Robinson made a motion to come out of executive session, which was seconded by Dr. Evans. The motion carried unanimously.

After coming back into session, the board decided that in the case of 2015-53, the state did not prove their case in the S.C. Code 40-1-110-d. They did prove the case in 40-1-110-f and the regulations of 17-7d and 17-7h. They assessed the sanction of \$250 in the violation to be paid within 60 days with no public reprimand.

A motion was given by Chairman Robinson to be in favor of the sanctions given and seconded by Dr. Evans. The motion carried unanimously.

iii. 2015-10

This hearing is in reference to the King of Kings Barbershop. The respondent, Mr. Lihguenton Cuenca, was represented by an attorney, Mr. Anthony Dore of the Beaufort Bar. In this case, there are two (2) issues:

- 1) This is the 2nd offense for unlicensed practicing.
- 2) This barbershop moved locations without notifying LLR.

Ms. Perlman called Mr. Jack Bowles as her first witness. Mr. Bowles works as an Inspector with the LLR. She gave out her first exhibit, which was the notice of the hearing/formal complaint, in which Mr. Dore objected to. Ms. Perlman stated that they use it as charging documents. The objection was overruled. Mr. Bowles stated that he inspected King of Kings Barbershop and his inspection document was given that he conducted on March 17, 2015, which was used as exhibit 2. Mr. Bowles entered the barbershop and upon reviewing licenses, he saw that Mr. Christian Cuenca, who was working with a client currently, was not licensed. He is licensed in Ecuador, but not here in South Carolina. The address given for the barbershop was Heatherglen Lane in Bluffton, South Carolina. This was the address Mr. Bowles went to in March and that was on their license. The barbershop did not pass the inspection because they had unlicensed practicing. Mr. Bowles was unsure of his second inspection. Ms. Perlman could not retrieve Mr. Bowles' second inspection report, the follow-up from his March inspection. He did state that he returned to the barbershop after that and saw that Mr. Christian Cuenca was not working there anymore, but there was another gentleman who was there that was unlicensed, who was believed to be the owner's brother. They were still at the same location at his second inspection and he did not go back after that. Mr. Raymond Lee went back after that to inspect and that is when the location had changed. During the cross examination, Mr. Bowles stated that he performed 2 (two) inspections, but was unsure of the second date of the inspection after March. He also stated that it was in the same location (Heatherglen Lane).

He does not have a copy of the barbershop license, but was there when they initially opened the barbershop and it was the same location. He does not know for a fact that the barbershop moved. He could not remember his unlicensed brother's name either. Mr. Bowles did not file the charges. It was not up to Mr. Bowles to make the determination to make the charge against the barbershop. Ms. Perlman asked Mr. Bowles what the process was after he completes an inspection report. He stated that it goes to his supervisor, then to the barber board. He only gets the facts. He also is not aware of any consent agreements or what the barber board considers when making these charges; the charges are made from his inspection report. This was determined from the cross examination of Mr. Bowles. Mr. Barnes asked Mr. Bowles what a passing grade on a barbershop was. From what he understands, it could be anything from a 70 or above. Chairman Robinson asked if an 81 would be considered a passing grade for the sanitation, which Mr. Bowles stated that it did, but they failed when it came to licenses posted. Dr. Evans asked if the information came from Mr. Christian Cuenca in reference to him being unlicensed and if he observed him cutting hair, in which he stated he did.

Mr. Robbie Boland was the next witness called. He is employed with inspections (LLR). Ms. Perlman gave him the inspection report (exhibit 3) that Mr. Lee completed on October 2, 2015. There was an objection made because Mr. Lee was not there to speak and that it was just hearsay. Mr. Lee has never been cited for issuing a false report. Ms. Durkin asked Mr. Boland if someone is working without a license, does that negate the shop failing their inspection. Is the inspection completed? Mr. Boland stated that they normally just fail the shop and re-inspect at a later date. Sanitation/restrooms may still be done, but the shop will fail with unlicensed persons. The form is primarily for inspections and then for citing unlicensed practices, in response to Dr. Evans' questions.

Ms. Perlman then called Mr. Lihguenton Cuenca to the witness stand. There was an objection by Mr. Dore who stated that he does not wish to testify and has a constitutional right. The burden is on the state to prove this case.

Chairman Robinson entertained a motion to go into executive session per the objection on the floor. The motion was made by Mr. Barnes, which was seconded by Dr. Evans. The motion carried unanimously.

The board then went into executive session.

Chairman Robinson made a motion to come out of executive session, which carried unanimously.

Dealing with the objection on the floor, Mr. Cuenca is not compelled to testify.

Ms. Perlman rested at that point. She deferred her closing argument. In Mr. Dore's closing argument, he stated that it puts them at a disadvantage at questioning Mr. Lee's report without him being present. His client is not versed in law and asks for fair consideration. He also mentions that the mailing address is different from the physical address. Ms. League asked him to stick to what had already been given. In Ms. Perlman's closing argument, she stated that the board hears many cases from inspections. Mr. Bowles inspected twice and testified that he found unlicensed persons. Mr. Lee has never been accused of submitting false documentation. Mr. Cuenca has still violated the board rules on at least two (2) occasions. We do not have the testimony on the move of the shop, but the reports have two (2) different addresses. He has violated this act on at least three (3) occasions.

Dr. Evans made a motion to go into executive session, which was seconded by Ms. Durkin. The motion was carried unanimously.

The board then went into executive session.

Mr. Barnes made a motion to come out of executive session, which was seconded by Ms. Durkin. The motion carried unanimously.

After coming back into session, the board decided that in the case of 2015-10, the state failed to meet the burden of proof. The case was dismissed with prejudice.

A motion was given by Chairman Robinson to be in favor of the sanctions given and seconded by Ms. Durkin. The motion was carried unanimously.

11. Discussion

None.

12. Board Member Reports

Renee Patton and Chairman Robinson are on the NABBA Committee for reviewing curriculums throughout the nation. They have been having telephone conferences continuously since the last meeting. A lot of states do not have a public curriculum. The objective is to present a curriculum at the convention to prevent disparities throughout the states. We also have a problem with reciprocity and endorsement issues.

On Thursday, January 28, 2016, Dr. Evans and Ms. Patton were confirmed for reappointment back to the Board as members.

13. Public Comments

No Public Comments.

14. Adjournment 12:36 p.m.

Dr. Evans made a motion to adjourn. Mr. Barnes seconded the motion which carried unanimously.

The next meeting of the S.C Board of Barber Examiners is schedule for April 11, 2016.